



UNITED STATES PATENT AND TRADEMARK OFFICE

TS

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

09/842,477

04/25/2001

Frederick S.M. Herz

7916

23628 7590 09/22/2006

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

EXAMINER

WINDER, PATRICE L

ART UNIT

PAPER NUMBER

2145

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/842,477

Applicant(s)

HERZ ET AL.

Examiner

Patrice Winder

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 2-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Guo et al., USPN 6,377,972 B1 (hereafter referred to as Guo).

3. Regarding claim 2, Guo taught a method for reducing bandwidth utilization in a system for distributing digital continuous media information from one or more servers, where users of the system are connected to a shared continuous media buffer (column 3, lines 29-54), comprising:

a first user requesting a continuous media stream from a server (column 8, lines 50-57);

the server sending packets to the first user representing portions of the media stream (column 9, lines 9-11);

the shared continuous media buffer capturing the packets sent by the server, and redistributing them to the first user (column 8, lines 60-62; column 9, lines 9-11);

a second user requesting the continuous media stream from the server, wherein the request is made at a time when the continuous media buffer no longer retains first

Art Unit: 2145

packets from the stream, representing a missed portion of the stream (column 9, lines 18-27);

 sending a burst of packets to the second user representing the first packets comprising the missed portion of the stream, wherein the second user catches up to the buffer (column 9, lines 28-30); and

 distributing the packets representing the stream from the shared buffer after the second user catches up to the shared buffer (column 9, lines 43-48).

4. Regarding claim 3, Guo taught a method for reducing bandwidth utilization in a distributed communication system (abstract), comprising:

 transmitting a cached series of data packets representing a data stream to a first local client (column 9, lines 9-11);

 retaining a most recent plurality of said cached packets in a shared buffer (column 3, lines 55-60; column 8, lines 50-54);

 a second local client requesting the data stream, wherein initial packets from the data stream are not longer retained in the shared buffer (column 9, lines 12-27);

 providing a high speed burst of data packets to the second local client, wherein the burst of data packets includes those initial data packets no longer retained in the shared buffer (column 9, lines 22-30);

 transmitting remaining data packets from the stream from the shared buffer (column 43-48).

Art Unit: 2145

5. Regarding dependent claim 4, Guo taught the data stream has a defined beginning, and wherein the second local client requests the data stream from the defined beginning (column 9, lines 12-27).
6. Regarding dependent claim 5, Guo taught the data stream has a defined beginning, and wherein the second local client requests that data stream from a point other than the defined beginning (column 9, lines 34-40).
7. Regarding dependent claim 6, Guo taught the server periodically sending packets to the first user further comprises caching said packets before sending them to the first user (column 7, lines 43-55) and wherein the packets captured by the shared continuous media buffer are the cached packets (column 7, lines 43-55).

Response to Arguments

8. Applicant's arguments with respect to claims 2-6 have been considered but are moot in view of the new ground(s) of rejection.

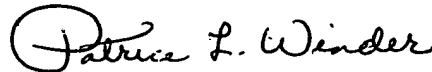
Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2145

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in cursive script, reading "Patrice L. Winder".

Patrice Winder
Primary Examiner
Art Unit 2145

September 18, 2006